

IPW AP 8

TRANSMITTAL OF APPEAL BRIEF (Large Entity)	Docket No. FR000059
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In Re Application Of: Herrmann et al.

Application No. 09/872,994	Filing Date 06/01/2001	Examiner Ramy M. Osman	Customer No.	Group Art Unit 2157	Confirmation No. 3143
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Invention: PROCESSING SYSTEM FOR MANAGING AND CONTROLLING NETWORK RESOURCES

COMMISSIONER FOR PATENTS:

Transmitted herewith in triplicate is the Appeal Brief in this application, with respect to the Notice of Appeal filed on

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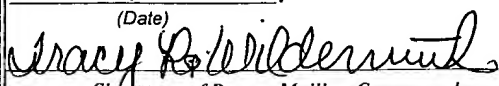
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Dated: January 19, 2006

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I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to "Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450" [37 CFR 1.8(a)] on January 19, 2006 (Date)  Signature of Person Mailing Correspondence Tracy R. Wildermuth Typed or Printed Name of Person Mailing Correspondence



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Appellants: Herrmann et al.
Serial No.: 09/872,994
Filed: June 1, 2001
For: Processing System For Managing and Controlling Network Resources
Attorney Dkt. No.: FR000059
Art Unit: 2157
Examiner: Osman, Ramy M.

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BRIEF OF APPELLANTS

This is an appeal from the Final Office Action dated September 20, 2005, rejecting claims 1-8. This Brief is accompanied by the requisite fee set forth in 37 C.F.R. 1.17 (c).

REAL PARTY IN INTEREST

Koninklijke Philips Electronics N.V. is the real party in interest.

RELATED APPEALS AND INTERFERENCES

There are no related appeals or interferences.

STATUS OF CLAIMS

As filed, this case included claim 1. Claims 2-8 were added in the Amendment filed November 24, 2004. Claims 1-8 remain pending, stand rejected, and form the basis of this appeal.

STATUS OF AMENDMENTS

An After-Final Amendment, filed on November 1, 2005 in response to the Final Office Action dated September 20, 2005, was entered by the Examiner.

SUMMARY OF CLAIMED SUBJECT MATTER

The present invention discloses a processing system (FIG. 1) comprising at least a user terminal 11 in a user location, a server 12 coupled to the user terminal, a communication network 30, and an interface device 20 located between the network and the user terminal (see also, e.g., page 1, line 31 – page 2, line 16). The interface device 20 includes: formatting means 21 for formatting incoming data received from the terminal 11 into packets identified by headers and that can be sent towards the network 30 and managing means 23 for managing and controlling an output bitrate and handling a delivery monitoring service of the packets on the network 30 according to the output bitrate. The managing means 23 includes: a receiving stage 231 for receiving incoming packets from the network 30; an analysis stage 232 for analyzing the incoming packets; a statistics processing stage 233 for computing statistics based on analysis provided by the analysis stage 232; a formatting stage 234 for creating packets to be sent toward the network 30; and an output bitrate adjusting stage (see, e.g., page 3, line 17 – page 4, line 23, and FIG. 3) for selectively adjusting the output bitrate based on the computed statistics, wherein the output bitrate is adjusted by providing a plurality of bitstreams encoded at different bitrates and selecting one of the plurality of bitstreams based on the computed statistics.

GROUND OF REJECTION TO BE REVIEWED ON APPEAL

1. Whether claims 1-8 are unpatentable under 35 U.S.C. 103(a) over Grabelsky et al. (U.S. 6,678,250), hereafter "Grabelsky," in view of Ito et al. (U.S. 6,052,734), hereafter "Ito."

ARGUMENT

(1) Rejection of claims 1-8 under 35 U.S.C. 103(a) over Grabelsky in view of Ito.

Appellants respectfully submit that the rejection of claims 1-8 under 35 U.S.C. 103(a) over Grabelsky in view of Ito is defective.

To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations.

In this case, the rejection is defective because, *inter alia* the cited references, taken alone or in combination, fail to teach or suggest each and every feature of the claims as required by 35 U.S.C. 103(a).

Claim 1 includes:

"an output bitrate adjusting stage for selectively adjusting the output bitrate based on the computed statistics, wherein the output bitrate is adjusted by providing a plurality of bitstreams encoded at different bitrates and selecting one of the plurality of bitstreams based on the computed statistics."

Appellants respectfully submit that Grabelsky fails to teach or suggest, among other features, the claimed “output bitrate adjusting stage for selectively adjusting the output bitrate based on the computed statistics, wherein the output bitrate is adjusted by providing a plurality of bitstreams encoded at different bitrates and selecting one of the plurality of bitstreams based on the computed statistics.” The Examiner concurs with this position as evidenced on page 4 of the above-referenced Final Office Action.

In order to overcome this glaring deficiency of Grabelsky, the Examiner relies on the reference of Ito. In particular, the Examiner alleges that Ito teaches “an intermediary system monitoring and controlling real time data transmission to receivers over a network for the purpose of preventing congestion, packet loss and other network impediments,” and “adjusting and selecting a transmission rate based on RTCP statistics.” To justify this position, the Examiner asserts that “it would have been obvious ... to modify Grabelsky to comprise an output bitrate adjusting stage for selectively adjusting the output bitrate based on the computed statistics, wherein the output bitrate is adjusted by providing a plurality of bitstreams encoded at different bitrates and selecting one of the plurality of bitstreams based on the computed statistics as per the teachings of Ito for the purpose of preventing congestion, packet loss and other network impediments.” Appellants respectfully disagree and submit that the Examiner has misinterpreted the teachings of Ito.

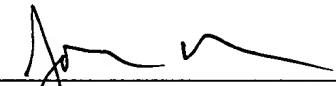
Contrary to the interpretation of the Examiner, Ito does not teach or suggest **the adjustment of the output bitrate “by providing a plurality of bitstreams encoded at different bitrates and selecting one of the plurality of bitstreams based on the computed statistics.”** Rather, Ito teaches that the bitrate of the data being transmitted to a receiving terminal is selectively adjusted based on the degree of congestion (see, e.g., col. 4, lines 38-

61). To this extent, Ito discloses the adjustment of the bitrate of a single bitstream rather than providing a plurality of different bitstreams encoded at different bitrates and the selection of one bitstream from the plurality of bitstreams.

Accordingly, since the combination of Grabelsky and Ito fails to teach or suggest each and every feature of the claims as required by 35 U.S.C. 103(a), Appellants respectfully submit that claims 1-8 are allowable.

In view of the foregoing, it is respectfully submitted that the currently-pending claims are in condition for allowance, and favorable consideration is earnestly solicited.

Respectfully submitted,



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CLAIMS APPENDIX

1. A processing system comprising at least a user terminal in a user location, a server coupled to said user terminal, a communication network, and an interface device located between said network and said user terminal, said interface device comprising:

(a) means for formatting incoming data received from said terminal into packets identified by headers and that can be sent towards said network;

(b) means for identifying packets received from the network and forwarding them to the terminal;

(c) means for managing and controlling an output bitrate and handling a delivery monitoring service of said packets on the network according to said output bitrate, comprising:

a receiving stage for receiving incoming packets from the network;

an analysis stage for analyzing the incoming packets;

a statistics processing stage for computing statistics based on analysis provided by the analysis stage;

a formatting stage for creating packets to be sent toward said network; and

an output bitrate adjusting stage for selectively adjusting the output bitrate based on the computed statistics, wherein the output bitrate is adjusted by providing a plurality of bitstreams encoded at different bitrates and selecting one of the plurality of bitstreams based on the computed statistics.

2. The processing system of claim 1, wherein the means for formatting incoming data received from said terminal into packets identified by headers is configured to:
 - format the incoming data into real-time protocol (RTP) packets; and
 - send the RTP packets with RTP headers towards the network.
3. The processing system of claim 1, wherein the means for identifying packets received from the network and forwarding them to the terminal is configured to:
 - receive real-time protocol (RTP) packets from the network;
 - and
 - store data in view of their transmission to a current application running on the user terminal.
4. The processing system of claim 1, wherein the receiving stage receives real-time control protocol (RTCP) packets arriving from the network.
5. The processing system of claim 4, wherein the analysis stage analyzes the (RTCP) packets arriving from the network.
6. The processing system of claim 5, wherein the statistics processing stage computes statistics when real-time protocol (RTP) packets are received from the network and when RTCP packets are received or sent.

7. The processing system of claim 6, wherein the statistics computed when real-time protocol (RTP) packets are received from the network comprise at least one of a number of RTP packets received, packet loss, and delays.
8. The processing system of claim 6, wherein the statistics computed when RTCP packets are received or sent comprise an error rate.



EVIDENCE APPENDIX

No evidence has been submitted.



RELATED PROCEEDINGS APPENDIX

There are no related proceedings.